

FEDERAL RESERVE BANK
OF DALLAS

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March 7, 2012

TO THE CHIEF EXECUTIVE OFFICERS and CHIEF ACCOUNTING OFFICERS or CHIEF FINANCIAL OFFICERS at HOLDING COMPANIES and STATE MEMBER BANKS

SUBJECT: Reporting Requirements for Annual Independent Audits and Reports under the FDIC Rules (12 CFR part 363)

Insured Depository Institution Reporting Requirements

Insured depository institutions with \$500 million or more in total assets as of the beginning of their fiscal year are required to follow certain reporting requirements and file certain reports with the appropriate Federal Reserve Bank, the Federal Deposit Insurance Corporation (FDIC), and the appropriate state supervisory agency. This letter is being sent as a reminder and highlights the key reporting and filing requirements under 12 CFR part 363. The rules are available on the *Federal Register's* website referenced at the end of this letter.

Required Filings

Under 12 CFR part 363, insured depository institutions with total assets of \$500 million or more as of the beginning of their fiscal year are required to file two copies of the following reports with the applicable Federal Reserve Bank, the FDIC, and the appropriate state supervisory agency:

1. Audited comparative financial statements.
2. Independent public accountant's report on the audited financial statements.
3. Management report that contains:
 - a. A statement of management's responsibilities for:
 - i. Preparing the annual financial statements;
 - ii. Establishing and maintaining an adequate internal control structure and procedures over financial reporting; and
 - iii. Complying with designated safety and soundness laws and regulations pertaining to insider loans and dividend restrictions.
 - b. An assessment by management of:
 - i. Compliance with the designated safety and soundness laws and regulations pertaining to insider loans and dividend restrictions during the year, which must state management's conclusions regarding compliance and disclose any noncompliance with these laws and regulations.¹
 - c. Management signatures (Chief Executive Officer (CEO) and Chief Accounting Officer (CAO) or Chief Financial Officer (CFO)).
4. Any written communications issued to the board of directors or management by the independent public accountant.

¹ Refer to Appendix B of 12 CFR part 363 for further details and illustrative examples of the appropriate wording for the management report.

Additional Filing Requirements for Institutions with \$1 billion or more in Total Assets

Insured depository institutions that have \$1 billion or more in total assets as of the beginning of their fiscal year are required to file two copies of the reports listed above as well as two copies of the following additional reports with the appropriate Federal Reserve Bank, the FDIC, and the appropriate state supervisory agency:

- a. Management report that contains an assessment by management of the effectiveness of the internal control structure over financial reporting as of the end of the fiscal year; and
- b. Independent public accountant's attestation report concerning the institution's internal control structure over financial reporting that includes the Call report and/or the FR Y-9C report.

Audit Committee Requirements

For an insured depository institution that has \$500 million or more, but less than \$1 billion, in total assets as of the beginning of its fiscal year, all audit committee members must be outside directors, the majority of whom must be independent of management.

For an insured depository institution that has \$1 billion or more in total assets as of the beginning of its fiscal year, **all** audit committee members must be outside directors **and** independent of management.

Reporting Requirements for Subsidiaries of Holding Companies

The amended guidance permits an insured depository subsidiary to file its audited financial statements at the holding company level (top-tier or mid-tier) if the holding company has total insured depository institution assets comprising 75 percent or more of the holding company's consolidated assets as of the beginning of the fiscal year. Furthermore, the other reporting requirements under 12 CFR part 363 can also be satisfied at the holding company level if the holding company provides services and functions comparable to the insured depository institution, and the insured depository subsidiary (a) has less than \$5 billion in total assets or (b) has a CAMELS composite rating of 1 or 2 when its total assets are \$5 billion or more.

Please note that SR letter 94-3, "Supervisory Guidance on the Implementation of Section 112 of the FDIC Improvement Act," states that in order to facilitate effective and prudential supervision of the holding company, holding companies that have institutions subject to the FDIC rules must submit one copy of the required reports to the appropriate Federal Reserve Bank regardless of whether or not the holding company submitted these reports on a consolidated basis for its insured depository subsidiaries, and regardless of the charter of the insured depository subsidiary under the holding company.

Required Management Report Signatures

An insured depository institution and holding company must adhere to the following specific signature requirements under 12 CFR part 363:

- If the audited financial statements and the management report are satisfied entirely at the insured depository institution level, the management report must be signed by the CEO and the CAO or CFO at the insured depository institution level.
- If the audited financial statements and the management report are satisfied entirely at the holding company level, the management report must be signed by the CEO and the CAO or CFO at the holding company level.
- If the audited financial statements are satisfied at the holding company level and the management report is satisfied at the insured depository institution level or one or more components are satisfied at the holding company and the remaining components are satisfied at the insured depository institution level, the management report must be signed by the CEO and CAO or CFO of both the holding company and the insured depository institution.

Filing Deadlines

Insured depository institutions that are public or that are subsidiaries of a public company whose total insured depository institution assets comprise 75 percent or more of the holding company's consolidated assets must file the reports required under 12 CFR part 363 within 90 days after the end of their fiscal year.² Each insured depository institution that is not a public company must file the reports required under 12 CFR part 363 within 120 days after the end of its fiscal year.

Late Report Filings

An extension of time for filing required reports under 12 CFR part 363 will not be granted. An insured depository institution that is unable to complete the filing requirements under 12 CFR part 363 must submit a notification of late filing, on or before the deadline for filing the required reports to the FDIC, the appropriate federal banking agency, and the appropriate state supervisory agency that discloses the reasons in detail along with the date the reports will be filed.

For more details on the reporting and filing requirements under 12 CFR part 363, please refer to the final rule ("Annual Independent Audits and Reporting Requirements; Final Rule"), which can be found in 74 *Federal Register*, 35726 (July 20, 2009).³

If you have any reporting questions, please contact the Director of Examinations for your institution. These contacts can be found at: <http://dallasfed.org/banking/contact.html#bank>, under Bank Examination and BHC Inspection Issues.

Please submit completed Section 36 Reports to:

USPS:

Federal Reserve Bank of Dallas
Banking Supervision Department
P. O. Box 655906
Dallas, Texas 75265-5906

COURIER:

Federal Reserve Bank of Dallas
Banking Supervision Department
2200 North Pearl Street
Dallas, Texas 75201-2216

Sincerely,

² U.S. Securities and Exchange Commission (SEC) reporting deadlines may differ depending on whether an institution is considered to be an accelerated or non-accelerated filer.

³ See <http://www.gpo.gov/fdsys/pkg/FR-2009-07-20/pdf/E9-17009.pdf>